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Your Maternity Leave:

Your Rights in Massachusetts

**The Governor's Office
on
Women's Issues**

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WHAT HAPPENS IF...

o Jane S. informed her supervisor in March that she would be having a baby in August. When an opportunity for advancement became available, Jane S. applied. She was well qualified for the position and had worked for the company for 5 years. John H., who had only worked for the company for a year and had little prior experience, got the appointment. Jane S. was told that because of her "condition", Susan's supervisor felt that it would be too stressful. What are Jane's rights?

o In September, Barbara T. informed her supervisor, Susan B., that she would be having a baby in January. Susan told Barbara that she could only allow Barbara to take a three-week leave because of the volume of work. What are Barbara's rights?

ARE THESE WOMEN ENTITLED TO A LEAVE?

In both situations, the women would have grounds to file a pregnancy discrimination complaint in Massachusetts. Just as an employer can not discriminate on the basis of race, age, national origin or religious beliefs, an employer may not discriminate against women who are pregnant.

As of 1972, under Chapter 149, Section 105D of the Massachusetts General Laws, a woman is guaranteed an eight-week maternity leave for the birth of a new child or the adoption of a child under three if the following conditions are met:

o The initial probationary period set by the employer has been completed (if there is no probationary period, then the woman must have been employed by the same employer for at least three consecutive months as a full-time employee)

o At least two weeks notice of the anticipated date of departure and intention to return has been given to the employer.

WHAT BENEFITS AM I ENTITLED TO?

While on maternity leave, a woman has the right to receive bonuses, sick leave, vacation time and other benefits for which she was eligible at the time of her leave, as well as continue to accrue seniority benefits. An employer is not required to pay the cost of any benefits unless such costs are paid for employers on a leave of absence. A maternity leave may be with or without pay at the discretion of the employer.

When a woman returns from maternity leave, she is entitled to her previous or comparable position with the same status.

CAN I BE ASKED ABOUT MY PREGNANCY AND MY FAMILY LIFE DURING AN INTERVIEW?

COMMON CONCERNS

When I told my supervisor that I was pregnant, s/he told me that I could not take a maternity leave. What should I say?

Your supervisor may have reacted negatively for a number of reasons including: you have special skills that are essential to the organization; it is a small office which would be affected by your absence; others are out on parental or maternity leave. If you can identify the possible cause of the anger, think of a response. If your supervisor continues to be unresponsive, firmly state that you are aware of the maternity leave provisions under Massachusetts law and that you are willing to work on a smooth transition.

When I returned from my leave, I found that many of my duties had been redistributed to the person who had filled in during my leave. I am now doing half of the duties that my job entailed. What can I do?

The law states that a woman is to be returned to the same or a "comparable" position. As there are no clear guidelines for what constitutes a "comparable" position, you might want to discuss your dissatisfaction with your supervisor. If you are unable to resolve the situation, you might request new responsibilities which would be challenging for you.

In an interview, an employer may not ask you if you are pregnant. In addition, the following questions may be discriminatory if they are asked of women and not men:

- o Do you have any children?
- o Do you intend to have children?
- o What child care arrangements have you made?

HOW DO I PLAN FOR MY LEAVE?

Before speaking with your supervisor, go over this planning checklist:

- o Review your organization's written maternity leave policy.
- o Anticipate the approximate period of leave.
- o Determine available sick, vacation, and personal time.
- o Understand your employer's policy and any limitations on using sick pay during maternity leave.
- o Think about how your work might be distributed while you're away.
- o Determine whether you would like to work flexible hours and what existing policies your company may have.
- o Speak with your supervisor well in advance of your departure.

o After you have spoken with your supervisor, discuss work distribution with your co-workers **if this was agreed to by your supervisor.** If it was determined that your work would be suspended while you are on leave, organize your desk and files so that materials can easily be found by others.

o If your leave will be without pay, you should prepare a personal budget.

o Determine whether you and your expected child will continue to receive benefits (such as health insurance) during any period of leave, and if not, consider alternatives to provide for such coverage.

o Begin looking for child care early.

I WOULD LIKE TO CHANGE MY WORK SCHEDULE AFTER MY CHILD IS BORN. WHAT ARE SOME AVAILABLE OPTIONS?

Many employers offer employees a variety of flexible work options to accomodate work and family schedules. Many new parents choose such options, particularly during the early months of a child's life.

The following are examples of flexible work arrangements:

Parental Leave - This leave is often available to men and women. A parental leave is a leave of absence, with or without pay (employer's discretion), used for the care of a newborn or newly adopted child. The leave is in addition to the 8-week maternity leave.

Part-time Employment - This option would allow an employee to work less than full-time. Benefits are usually pro-rated.

Flex-time - This option would allow an employee to work a fixed number of hours, with varying arrival and departure times.

Job-sharing - This option enables two or more part-time employees to divide the equivalent of a full-time position.

WHERE CAN I GET MORE INFORMATION?

Governor's Office on Women's Issues
State House, Room 109A
Boston, MA 02133
(617) 727-7853

* Advisory office to the Governor.
Develops public policy and programs.
Information and referral.

Massachusetts Bar Association Legal
Referral Service
(617) 542-9103

* Provides referrals to attorneys.

National Organization for Women
Boston Chapter 971 Commonwealth Avenue
Boston, MA 02215
(617) 782-3241

* Advocates on a variety of women's issues.

FOR INFORMATION OR TO FILE A COMPLAINT

Equal Employment Opportunity Commission
John F. Kennedy Building, Room 409B
Boston, MA 02203 (617) 565-3200
* Investigates and resolves complaints.
Employee must work at an office of 15 or more people. No fee. Must file within 300 days of the incident.

Mass. Commission Against Discrimination (MCAD)

One Ashburton Place, 6th Floor
Boston, MA 02108 (617) 727-3990

* Investigates and resolves complaints.
Employee must work at an office of 6 or more people. No fee. Must file within 6 months of the incident.

Other MCAD Offices:

22 Front Street
P.O. Box 8008
Worcester, MA 01614
(508) 752-2272

145 State Street
Springfield, MA 01103
(413) 739-2145

53 N. 6th Street
New Bedford, MA 02740
(508) 997-3191

The Governor's Office on Women's Issues is pleased to offer this pamphlet outlining the maternity leave law in Massachusetts. Please feel free to share this information with your employer, supervisor, and colleagues. Use the information to help plan your maternity leave and eventual return to work.

Knowledge of the law and careful planning can help you to better adjust to your new family.

The information in this guide is intended to assist individuals and should not be construed as legal advice.

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